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# HOUSE BILL No. 1228

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 14-28-1-22.

**Synopsis:** Floodway regulation. Provides for the issuance of a permit for the construction of a structure in a floodway if certain conditions are met and the lowest floor of the structure will not be below the 100 year flood level plus one foot.

**Effective:** July 1, 2002.

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January 10, 2002, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE BILL No. 1228

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 14-28-1-22 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 22. (a) As used in  
3 subsection (b)(1) with respect to a stream, "total length" means the  
4 length of the stream, expressed in miles, from the confluence of the  
5 stream with the receiving stream to the upstream or headward  
6 extremity of the stream, as indicated by the solid or dashed, blue or  
7 purple line depicting the stream on the most current edition of the  
8 seven and one-half (7 1/2) minute topographic quadrangle map  
9 published by the United States Geological Survey, measured along the  
10 meanders of the stream as depicted on the map.  
11 (b) This section does not apply to the following:  
12 (1) A reconstruction or maintenance project (as defined in  
13 IC 36-9-27) on a stream or an open regulated drain if the total  
14 length of the stream or open drain is not more than ten (10) miles.  
15 (2) A construction or reconstruction project on a state or county  
16 highway bridge in a rural area that crosses a stream having a  
17 upstream drainage area of not more than fifty (50) square miles



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and the relocation of utility lines associated with the construction or reconstruction project if confined to an area not more than one hundred (100) feet from the limits of the highway construction right-of-way.

(3) The performance of an activity described in subsection (c)(1) or (c)(2) by a surface coal mining operation that is operated under a permit issued under IC 14-34.

(4) Any other activity that is determined by the commission, according to rules adopted under IC 4-22-2, to pose not more than a minimal threat to floodway areas.

(5) An activity in a boundary river floodway to which section 26.5 of this chapter applies.

(c) A person who desires to:

(1) erect, make, use, or maintain a structure, an obstruction, a deposit, or an excavation; or

(2) suffer or permit a structure, an obstruction, a deposit, or an excavation to be erected, made, used, or maintained;

in or on a floodway must file with the director a verified written application for a permit accompanied by a nonrefundable fee of fifty dollars (\$50).

(d) The application for a permit must set forth the material facts together with plans and specifications for the structure, obstruction, deposit, or excavation.

(e) An applicant must receive a permit from the director for the work before beginning construction. The director shall issue a permit only if in the opinion of the director the applicant has clearly proven that the following:

**(1) The structure, obstruction, deposit, or excavation will not do any of the following:**

**(1) (A)** Adversely affect the efficiency of or unduly restrict the capacity of the floodway.

**(2) (B)** Constitute an unreasonable hazard to the safety of life or property.

**(3) (C)** Result in unreasonably detrimental effects upon fish, wildlife, or botanical resources.

**(2) If the application is for a structure, including an abode or a residence, the lowest floor of the structure will not be below the one hundred (100) year frequency flood elevation plus one (1) foot.**

(f) In deciding whether to issue a permit under this section, the director shall consider the cumulative effects of the structure, obstruction, deposit, or excavation. The director may incorporate in and

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1 make a part of an order of authorization conditions and restrictions that  
 2 the director considers necessary for the purposes of this chapter.

3 (g) A permit issued under this section:

4 (1) is void if construction is not commenced within two (2) years  
 5 after the issuance of the permit; and

6 (2) to:

7 (A) the Indiana department of transportation or a county  
 8 highway department if there is any federal funding for the  
 9 project; or

10 (B) an electric utility for the construction of a power  
 11 generating facility;

12 is valid for five (5) years from the date of issuance and remains  
 13 valid indefinitely if construction is commenced within five (5)  
 14 years after the permit is issued.

15 (h) The director shall send a copy of each permit issued under this  
 16 section to each river basin commission organized under:

17 (1) IC 14-29-7 or IC 13-2-27 (before its repeal); or

18 (2) IC 14-30-1 or IC 36-7-6 (before its repeal);

19 that is affected.

20 (i) The permit holder shall post and maintain a permit issued under  
 21 this section at the authorized site.

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